

Decision 03-06-016 June 5, 2003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of the State of California,
Department of Transportation, for an Order
authorizing the Department to Widen in the
Median Gap of the Existing South Magunden
Overhead, Bridge No. 50-0384 (P.U.C. No. BQ-
317.5-A) Over Tracks owned by San Joaquin
Valley Railroad in the County of Kern.

Application 02-11-045
(Filed November 25, 2002)

O P I N I O N

Summary

California Department of Transportation (Caltrans) requests authority to widen a grade-separated highway-rail crossing at South Magunden (CPUC Crossing No. BQ-317.5A) over the San Joaquin Valley Railroad (SJVRR) tracks in Kern County.

Discussion

Caltrans is the authorized department of the State of California created by the act of the Legislature of the State, with jurisdiction over the South Magunden grade-separated highway-rail crossing for the purposes of providing preliminary and final engineering studies and designs, environmental documentation, right of way acquisition and construction for widening the grade-separated highway-rail crossing on State Route 58 in Kern County.

The South Magunden grade-separated highway-rail crossing crosses the track of the SJVRR. SJVRR is a corporation doing business as a common carrier

operating a standard gauge railroad system in State of California. SJVRR owns and operates railroad tracks at the location of the project herein proposed to be constructed. Caltrans and SJVRR are in agreement on the work to be performed and apportionment of costs.

The purpose of this project is to widen both the northbound and southbound structures of State Route 58 in Kern County in order to provide the standard 3.0-meter shoulder width in both directions. The proposed shoulder will benefit the public by improving the operation and safety characteristics at the location. The tracks of the railroad will be left in place throughout construction. A site map of the grade-separated highway-rail crossing is as shown on plans attached to the application and Appendix A.

Horizontal and vertical clearances will not be affected. The completed structure will meet the minimum clearances in accordance with the provisions of the General Order 26-D. There will be no temporary or permanent impaired clearances for railroad traffic. The widening will occur entirely within Caltrans's right of way and will benefit the public by improving the operation and safety characteristics at the location. The general plan with layout for widening of the South Magunden grade-separated highway-rail crossing is shown in Appendix B.

Caltrans is the lead agency for this project under the California Environmental Quality Act of 1970 (CEQA), as amended, Public Resources Code Section 21000 et seq. On September 4, 2002, Caltrans prepared a Notice of Exemption determining that the project was exempt from CEQA pursuant to Public Resources Code Section 21080.13 and Section Title 14, Division 6, Section 15061 (b) (3) of the California Code of Regulations. The Exemption determination is attached as Appendix C.

The Commission is a responsible agency for this project under CEQA. CEQA requires that the Commission consider the environmental consequences of a project that is subject to its discretionary approval. In particular, a responsible agency must consider the lead agency's EIR or Negative Declaration prior to acting upon or approving the project (CEQA Guideline Section 15050(b)). The Commission has reviewed Caltrans' Notice of Exemption and we find the document adequate for our decision-making purposes. We further find that Caltrans appropriately determined that the project activities are exempt from CEQA.

The Commission's Consumer Protection and Safety Division — Rail Crossings Engineering Section (RCES) staff has reviewed the application. RCES examined the need for and the safety of the proposed overhead grade crossing and related railroad construction and recommends that the requested authority sought by Caltrans be granted for a period of 3 years.

The application is in compliance with the Commission's filing requirements, including Rule 38 of the Rules of Practice and Procedure, which relates to the construction of a public road, highway, or street across a railroad.

In Resolution ALJ 176-3102, dated December 6, 2002, the Commission preliminarily categorized this application as ratesetting, and preliminarily determined that hearings were not necessary. Since no hearings were held, this preliminary determination remains accurate. It is not necessary to disturb the preliminary determinations made in Resolution ALJ 176 -3102.

This is an uncontested matter in which the decision grants the relief requested. Accordingly, pursuant to Public Utilities Code Section 311(g)(2), the otherwise applicable 30-day period for public review and comment is being waived.

Assignment of Proceeding

Richard Clark is the assigned Examiner in this proceeding.

Findings of Fact

1. Notice of the application was published in the Commission Daily Calendar on November 27, 2002. No protests were received. A public hearing is not necessary.

2. Caltrans requests authority, under Public Utilities Code Sections 1201-1205, to widen South Magunden grade-separated highway-rail crossing bridge structure over SJVRR's main line tracks in Kern County.

3. The widening of the South Magunden grade-separated highway-rail crossing will benefit the public by improving the operation and safety characteristics at the location.

4. Public convenience, necessity and safety require the widening of South Magunden grade-separated highway-rail crossing.

5. Caltrans is the lead agency for this project under CEQA, as amended.

6. On September 4, 2002, Caltrans prepared a Notice of Exemption finding that the project was exempt from the CEQA process pursuant to Public Resources Code Section 21080.13 and Section Title 14, Division 6, Section 15061 (b) (3) of the California Code of Regulations.

7. The Commission is a responsible agency for this project and has reviewed Caltrans' Notice of Exemption and finds that Caltrans appropriately determined that the project is exempt from CEQA.

Conclusions of Law

1. The application is uncontested and a public hearing is not necessary.

2. The Commission finds that Caltrans reasonably found that the project is exempt from CEQA.

3. The application should be granted as set forth in the following order.

O R D E R

IT IS ORDERED that:

1. California Department of Transportation (Caltrans) is authorized to widen the South Magunden grade-separated highway-rail crossing, identified as Crossing No. BQ-317.5A over the tracks of San Joaquin Valley Railroad (SJVRR).

2. Clearances shall be in accordance with General Order (G.O.) 26-D.

3. Walkways shall conform to G.O. 118. Walkways adjacent to any trackage subject to rail operations shall be maintained free of obstructions and shall be promptly restored to their original condition in the event of damage during construction.

4. Construction and maintenance costs shall be borne in accordance with an agreement to be entered into between Caltrans and SJVRR (parties). Caltrans shall file a copy of the agreement, together with plans of the project approved by SJVRR, with the Commission's Rail Crossings Engineering Section (RCES) prior to construction. Should the parties fail to agree, the Commission will apportion the costs of construction and maintenance by further order.

5. Within 30 days after completion of the work under this order, SJVRR shall notify the Commission's RCES in writing, by submitting a completed standard Commission Form G (Report of Changes at Highway Grade Crossings and Separations) that the authorized work was completed.

6. This authorization shall expire if not exercised within three years unless time is extended or if the above conditions are not complied with. Authorization may be revoked or modified if public convenience, necessity, or safety so require.

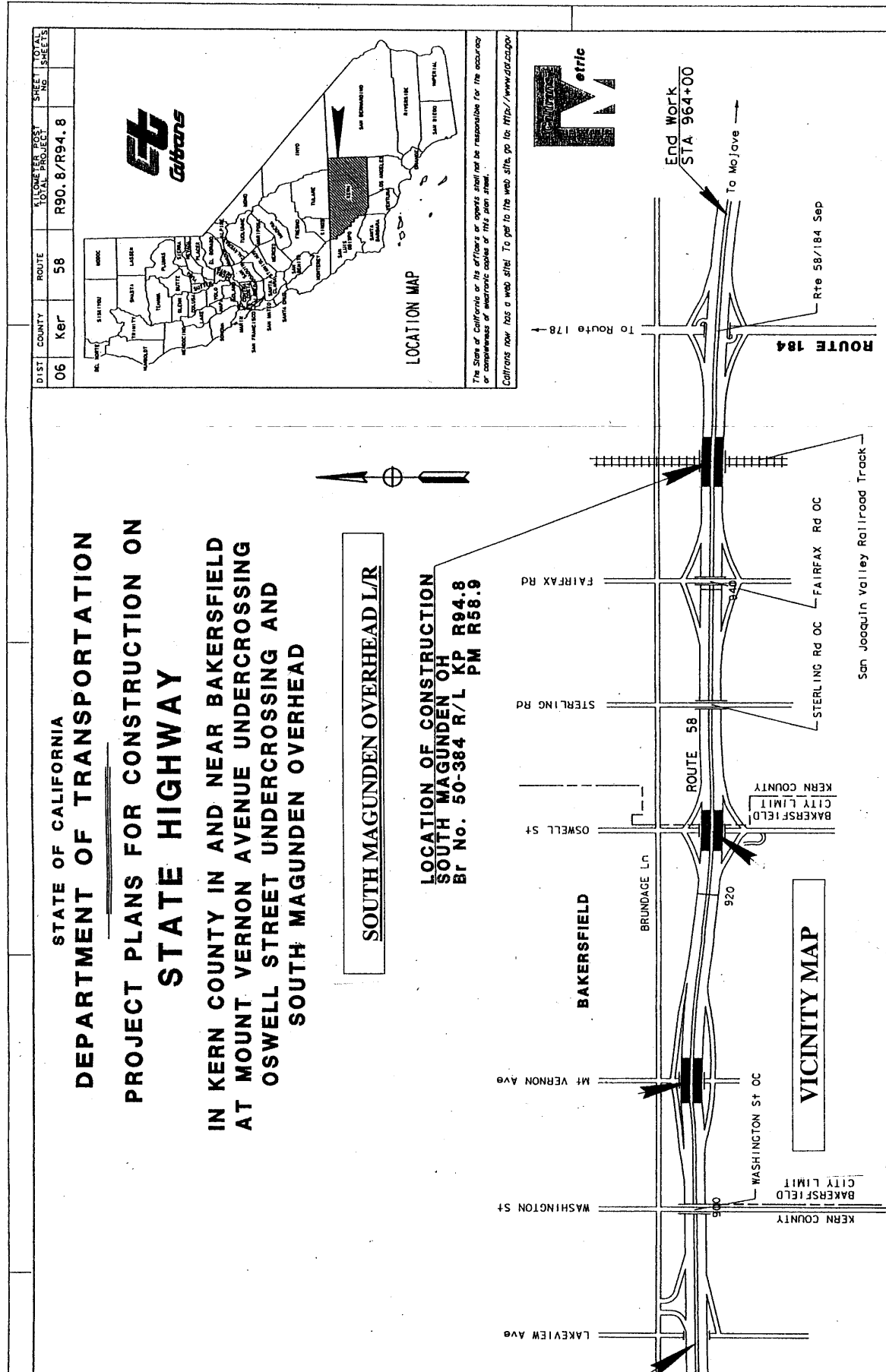
7. The application is granted as set forth above.

8. Application 02-11-045 is closed.

This order is effective today.

Dated June 5, 2003, at San Francisco, California.

MICHAEL R. PEEVEY
President
CARL W. WOOD
LORETTA M. LYNCH
GEOFFREY F. BROWN
SUSAN P. KENNEDY
Commissioners



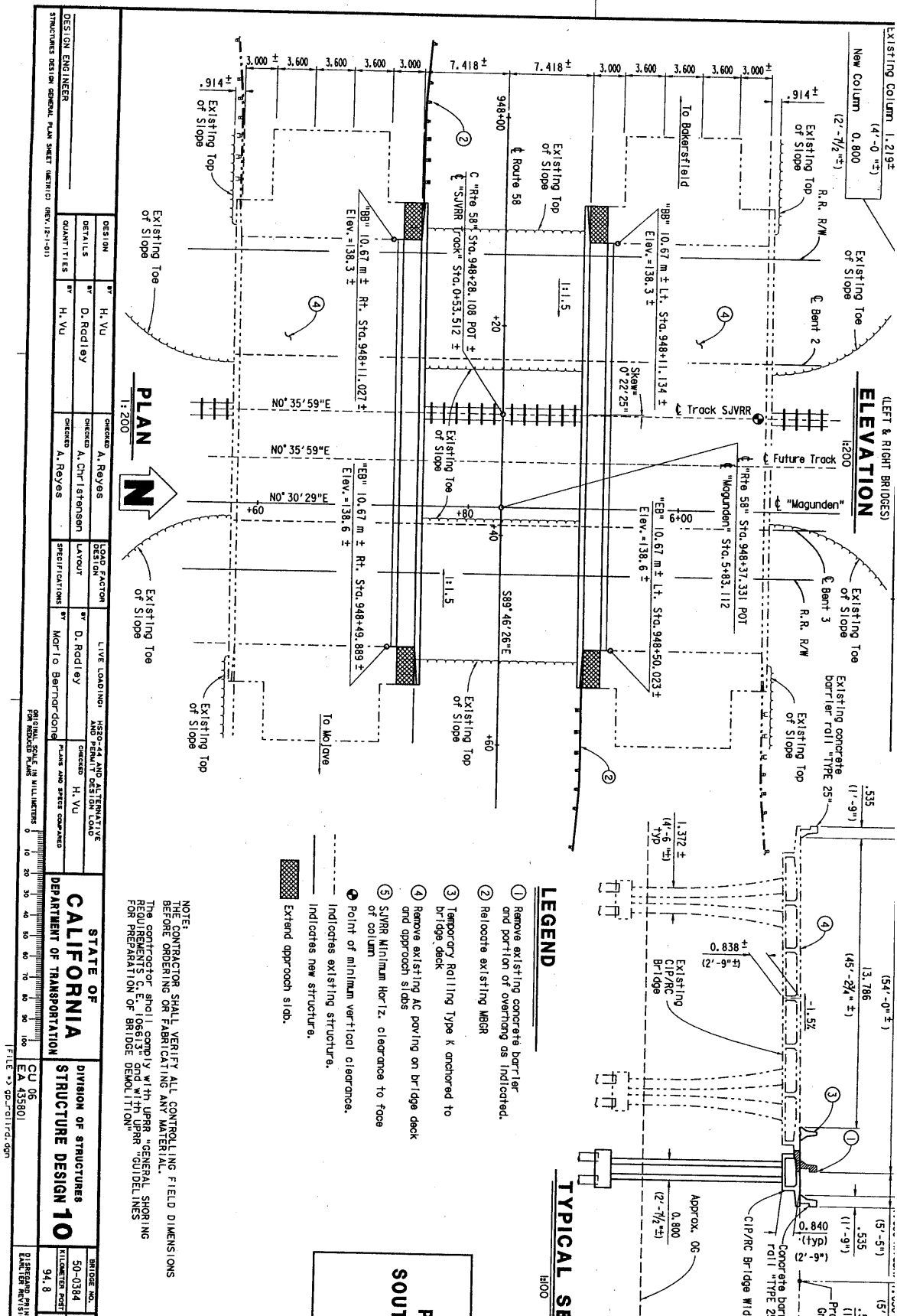


EXHIBIT "C" PUBLIC UTILITIES COMMISSION
SOUTH MAGUNDEN OH L/R [WIDEN INSIDE] Br No 50-0384 L/R

CATEGORICAL EXEMPTION
CATEGORICAL EXCLUSION/PROGRAMMATIC CATEGORICAL EXCLUSION
DETERMINATION FORM

06-Kern-58

90.8/94.8 9 (56.4/58.9)

43580K

Dist.-Co.-Rte. (or Local Agency)

K.P./I(P.M.)

E.A. (State project)

Proj. No. (Local project)
 (Fed. Prog. Prefix
 Proj. No., Agr. No.)

PROJECT DESCRIPTION: (Briefly describe project, purpose, location, limits, right-of-way requirements, and activities involved.)

This project proposes to widen by 2 meters, the inside shoulder of three bridges located on State Route 58 in Bakersfield, Kern County. The three bridges are at Mt. Vernon Avenue (UC#50-0392L/R)-PM56.41, Oswell Street (UC#50-0393L/R)-PM57.41, and South Magunden (OH#50-0384L/R)-PM58.92. see attached Swallow Provisions.

CEQA COMPLIANCE

LOCAL ASSISTANCE PROJECTS: Record of CEQA compliance is attached. []

STATE PROJECTS:

Categorical Exemption (See 14 CCR 15300 et seq.)

- If this project falls within exempt class 3, 4, 5, 6 or 11, it does not impact an environmental resource of hazardous or critical concern where designated, precisely mapped and officially adopted pursuant to law.
- There will not be a significant cumulative effect by this project and successive projects of the same type in the same place, over time.
- There is not a reasonable possibility that the project will have a significant effect on the environment due to unusual circumstances.
- This project does not damage a scenic resource within an officially designated state scenic highway.
- This project is not located on a site included on any list compiled pursuant to Govt. Code § 65962.5 ("Cortese List").
- This project does not cause a substantial adverse change in the significance of a historical resource.

CALTRANS CEQA DETERMINATION (for State Projects only)

☒ **Exempt by Statute** (PRC 21080)

Based on an examination of this proposal, supporting information, and the above statements, the project is:

☐ **Categorically Exempt**, Class 1, of ☒ **General Rule exemption** (This project does not fall within an exempt class, but it can be seen with certainty that there is no possibility that the activity may have a significant effect on the environment [CCR 15061(b)(3)])

Krista Helle
 Signature: Environmental Office Chief

9/3/02
 Date

John Ensch
 Signature: Project Manager

9/4/02
 Date

NEPA COMPLIANCE (23 CFR 771.117)**CATEGORICAL EXCLUSION**

- This project does not have a significant impact on the environment as defined by the NEPA.
- This project does not involve substantial controversy on environmental grounds.
- This project does not involve significant impacts on properties protected by Section 4(f) of the DOT Act or Section 106 of the National Historic Preservation Act.
- In nonattainment or maintenance areas for Federal air quality standards: this project comes from a currently conforming plan and Transportation Improvement Program.
- This project is consistent with all Federal, State, & local laws, requirements or administrative determinations relating to the environmental aspects of this action.

PROGRAMMATIC CATEGORICAL EXCLUSION

☐ Based on the evaluation of this project and supporting documentation in the project files, all the conditions of the September 7, 1990 Programmatic Categorical Exclusion have been met.

CALTRANS NEPA DETERMINATION

Based on an examination of this proposal, supporting information, and the above statements, it is determined that the project is a:

☐ **Categorical Exclusion**

☒ **Programmatic Categorical Exclusion**

Krista Helle
 Signature: Environmental Office Chief
 (for all State & Local CEs)

9/3/02
 Date

John Ensch
 Signature: Project Manager/DLA Engineer
 (PM: for all State CEs / DLAE: for Local Asst. PCEs)

9/4/02
 Date

FHWA DETERMINATION (if applicable)

Based on the evaluation of this project and the statements above, it is determined that the project meets the criteria of and is properly classified as a Categorical Exclusion.

Signature: FHWA Transportation Engineer

Date

[] Additional information attached or referenced, as appropriate (e.g. Mitigation commitments for NEPA only; Air Quality studies and documentation of exemption from regional conformity or use of CO Protocol; §106 commitments; §4(f) or Programmatic §4(f); date of COE nationwide permit; § 7 species survey results; Wetlands Finding; Floodplain Finding; additional studies; design conditions; Local Agency NOE.)